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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,756	11/14/2003	Earl Jacobson	22-0730	2907

40158 7590 05/26/2004

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EXAMINER

EVANS, ROBIN OCTAVIA

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 05/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/713,756	JACOBSON, EARL	
	Examiner	Art Unit	
	Robin O. Evans	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/14/03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 8-10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Whipple et al. (2,759,292).

Whipple et al. shows a fluid spraying system having a container member 40, a pressurizing assembly 60, a delivery assembly having a exiting aperture, nozzle 20, conduit 38, and flow controller 44, entrance aperture 56 on the perimeter wall, and pump handle 66.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 6 and 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whipple et al. in view of Tamian et al. (6,145,288).

Whipple et al. shows all of the claimed limitations recited including fastening means having a base portion 52 and extension portions 54 attached to each end of the base portion such that the bar of the lawn mover is pinched between the container and the extension portions but

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Whipple does not show a pair of tab members. Tamian et al. teaches that because lawn movers have different push handle configurations, that the mounting of the fluid reservoir can be accomplished by any means consistent with the configuration of the push handle. Therefore it would have been obvious to one of ordinary skill in the art to have used two tab members to secure the container to a different type of push handle so that the reservoir would be securely attached to the mower.

As to claim 11 and the limitation of the conduit having clip members, Tamian et al. also shows clip members connecting the hose 54 to the mower. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the conduit of Whipple et al. with clip members like the ones shown by Tamian et al. so as to be able to slip the conduit to the arm of the lawn mower so that the conduit will not be in the way of the user during operation of the device.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whipple et al. in view of Zennie (3,857,515).

Whipple et al. shows all of the claimed limitations but does not the container having a handle member. Zennie shows another spraying device having a container 41 with a handle 42 attached to a lawn mover. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made Whipple's container with a handle like the one shown by Zennie so as to be able to easily carry the container when it is necessary to remove the container for storage or refilling.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whipple in view of Tamian et al. and Zennie.

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Whipple et al. shows all of the claimed limitations recited including fastening means having a base portion 52 and extension portions 54 attached to each end of the base portion such that the bar of the lawn mover is pinched between the container and the extension portions but Whipple does not show a pair of tab members or the container having a handle member. Tamian et al. teaches that because lawn movers have different push handle configurations, that the mounting of the fluid reservoir can be accomplished by any means consistent with the configuration of the push handle. Therefore it would have been obvious to one of ordinary skill in the art to have used two tab members to secure the container to a different type of push handle so that the reservoir would be securely attached to the mower. Zennie shows another spraying device having a container 41 with a handle 42 attached to a lawn mover. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made Whipple's container with a handle like the one shown by Zennie so as to be able to easily carry the container when it is necessary to remove the container for storage or refilling.

As to claim 11 and the limitation of the conduit having clip members, Tamian et al. also shows clip members connecting the hose 54 to the mower. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the conduit of Whipple et al. with clip members like the ones shown by Tamian et al. so as to be able to slip the conduit to the arm of the lawn mower so that the conduit will not be in the way of the user during operation of the device.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown, Jr., Rhein et al., Enblom, Gnutel and Luoma show devices in the general state of the art of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin O. Evans whose telephone number is (703) 305-5766. The examiner can normally be reached on Monday-Thursday, 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robin O. Evans  
Primary Examiner  
Art Unit 3752

5/15/04